

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

OCTOBER 1, 1999

IN RE:

**PETITION OF US LEC OF TENNESSEE, INC.
FOR APPROVAL OF AN INTRALATA TOLL
DIALING PARITY PLAN**

DOCKET NO. 99-00279

**ORDER APPROVING THE INTRALATA TOLL DIALING PARITY
IMPLEMENTATION PLAN**

This matter came before the Tennessee Regulatory Authority (the "Authority") on August 10, 1999, at a regularly scheduled Authority Conference, to consider the Petition of US LEC of Tennessee, Inc. ("US LEC") for approval of an IntraLATA Toll Dialing Parity Implementation Plan ("the Plan").

Section 251(b) of the Telecommunications Act of 1996 ("the Act") requires all Local Exchange Carriers to provide dialing parity.¹ Specifically, section 251 (b)(3) of the Act states, "Dialing Parity - The duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays." The Act further states in sections 251(f)(1) and 251(f)(2) that a rural telephone company may file with the state commission for exemption, suspension or modification of the dialing parity requirements.

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, (February 8, 1996), codified at 47 U.S.C. §§151 *et seq.*

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The Federal Communications Commission ("FCC") initiated a rulemaking on dialing parity on April 19, 1996 and issued its findings in FCC 96-333 Order (Docket 96-98) adopted on August 8, 1996. This Order sets forth the criteria and guidelines for filing of a plan by all carriers. Subsequent to this Order the United States Court of Appeals for the Eighth Circuit vacated the FCC's rules, as they were applicable to intrastate services.² On January 25, 1999, the United States Supreme Court reversed certain portions of the Eighth Circuit's decision including that part of the decision which had stricken the FCC's rules pertaining to dialing parity.³

The FCC's original date for implementation, February 8, 1999, was reinstated by the Supreme Court's decision of January 25, 1999. As a result of this reinstatement, the FCC released FCC 99-54 Order (Docket 96-98) on March 23, 1999, which set forth revised implementation dates for dialing parity. This Order establishes April 22, 1999 as the new date by which all Local Exchange Carriers must file an IntraLATA Toll Dialing Parity Plan with State Commissions for approval. The Plan must be implemented within thirty (30) days after approval from the State Commission. Additionally, the Order states that the Plan must be filed with the Common Carrier Bureau of the FCC if the State Commission has not acted on the Plan by June 22, 1999.

US LEC is a telecommunications company operating under Tenn. Code Ann. § 65-4-201 as a competitive local exchange carrier that provides telecommunications services in Tennessee. Pursuant to 47 C.F.R. § 51.213, the petitioner is required to file a plan with the Authority that provides for implementing intraLATA toll dialing parity in the exchanges in

² FCC v. Iowa Utils. Bd., United States Court of Appeals for the Eighth Circuit, July 18, 1997.

³ AT&T v. Iowa Utils. Bd., 119 S.Ct. 721 (1999).

Tennessee where service is provided.⁴ This plan must allow customers to pre-subscribe to different carriers for local service, intraLATA toll service and interLATA toll service.⁵

US LEC filed an intraLATA toll dialing parity plan on April 22, 1999 with amendments on July 15, 1999 and July 16, 1999. The Plan as amended is attached hereto as Exhibit A, which is fully incorporated herein by this reference.

The Directors considered this plan at the August 10, 1999 Authority Conference and determined that the Plan, as amended, satisfies the requirements set forth by the FCC in Docket 96-98, FCC Order 96-333 and FCC Order 99-54.⁶ The Plan provides a method that enables customers to select alternate providers of telephone toll service; a method that allows customers to choose different carriers for interLATA and intraLATA service; and customer notification/education procedures. The Directors unanimously voted to approve the amended intraLATA toll dialing parity implementation plan of US LEC with the requirement that the petitioners comply with all applicable sections of FCC Order 96-333 upon implementation of intraLATA equal access.

IT IS THEREFORE ORDERED THAT:

1. The amended Plan of US LEC of Tennessee, Inc. for IntraLATA Toll Dialing Parity Implementation, a copy of which is attached as Exhibit A, is hereby approved and incorporated in this Order as if fully rewritten herein;


⁴ Under 47 C.F.R. §51.213, the Federal Communication Commission requires that an IntraLATA toll dialing parity plan contain: (1) a proposal that explains how the local exchange carrier will offer intraLATA toll dialing parity for each exchange that such carrier operates in the state, in accordance with the provisions of this section, and a proposed time schedule for implementation; and (2) a proposal for timely notification to its subscribers and the methods it proposes to use to enable each subscriber to affirmatively select an intraLATA toll service provider. The state commission must approve any such plan prior to implementation.


⁵ Pre-subscription allows the customer to place a call without dialing an access code.

⁶ FCC Order 96-333, released August 8, 1996, sets forth the requirements for implementation of IntraLATA Toll Dialing Parity. FCC Order 99-54, released March 23, 1999, extends to June 22, 1999 the deadline for state commissions to act on a LEC's IntraLATA Toll Dialing Parity Plan.

2. US LEC of Tennessee, Inc. shall comply with all applicable sections of FCC Order 96-333 upon implementing IntraLATA equal access; and

3. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order.


Melvin J. Malone, Chairman


H. Lynn Greer, Jr., Director


Sara Kyle, Director

ATTEST:


K. David Waddell, Executive Secretary

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July 15, 1999

Mr. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505Re: Amended Dialing Parity Plan for US LEC of Tennessee Inc.
Docket No. 99-00279

Dear Mr. Waddell:

On behalf of US LEC, I am submitting an original and thirteen (13) copies of this amended intraLATA dialing parity plan in response to discussions with Carsie Mundy of the TRA staff. This plan replaces the letter submitted by US LEC on April 22, 1999 and the plan submitted that same date in this docket. US LEC reiterates that the plan filed April 22, 1999 has been withdrawn.

US LEC already offers its local telephone customers a 2-PIC option and has done so since US LEC began offering local telephone service in Tennessee on February 1, 1998. Initially, the service was offered to customers who specifically requested a separate, intraLATA carrier. Now, the standard US LEC contract specifically asks that the customer designate an intraLATA carrier.

In order to insure that all US LEC customers are aware of the 2-PIC option, US LEC will mail notice to all customers that the 2-PIC option is available. Written notice will be sent to all existing customers within thirty (30) days following TRA approval of this plan. The notice, which will either be printed on the customer's bill or included with the bill, will state approximately as follows:

If you have not already selected a separate, long distance carrier for your 1+ intraLATA toll calls, you may do so by contacting your US LEC sales representative. If you are satisfied with your present service, no action is necessary to remain with your existing intraLATA carrier.

Mr. David Waddell
July 15, 1999
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As noted, all US LEC contracts ask a customer to select an intraLATA carrier. If an existing customer or new customer has not or does not select a carrier (No-PIC), its intraLATA toll calls will be blocked and such customer will need to dial an access code to complete its intraLATA toll calls. US LEC will make a list of intraLATA carriers available to all existing and new customers, if a customer requests such a list.

US LEC's plan will be implemented and its 2-PIC option will be available in all exchanges in which US LEC provides service and in all LATAs in which US LEC operates.

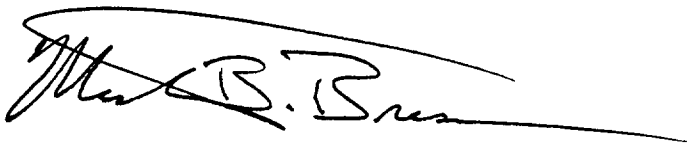
US LEC has no plans at this time to impose any additional charges to recover incremental costs related to implementing intraLATA toll dialing parity. Should US LEC decide later to impose such charges, US LEC will file an appropriate tariff. US LEC also does not have a PIC change charge.

When US LEC applied for authority to provide telecommunications services in Tennessee, it stated that it will abide by all applicable TRA rules. US LEC adheres to its previous statement.

If you have any questions concerning this plan, please contact Henry Walker at 252-2363 or me at 252-2399.

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:



Michael B. Bressman

cc: Carsie Mundy
Tim Smoak
Henry Walker

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OFFICE OF THE
EXECUTIVE SECRETARY
July 16, 1999

Mr. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Re: Amended Dialing Parity Plan for US LEC of Tennessee Inc.
Docket No. 99-00279

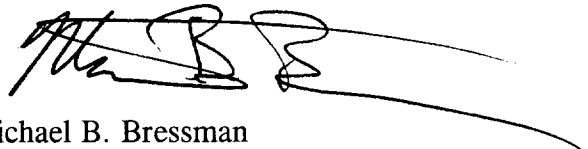
Dear Mr. Waddell:

Per the request of Carsie Mundy, attached please find an original and thirteen (13) copies of a revised second page to the Amended Dialing Parity Plan filed with the TRA on June 15, 1999.

If you have any questions concerning this plan, please contact Henry Walker at 252-2363 or me at 252-2399.

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:


Michael B. Bressman

cc: Carsie Mundy
Tim Smoak
Henry Walker

Mr. David Waddell
July 15, 1999
Page 2

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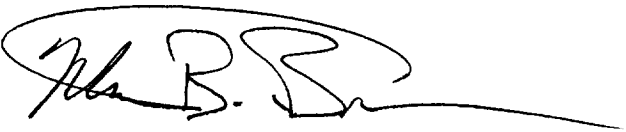
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BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:

A handwritten signature in dark ink, appearing to read "M.B. Bressman", with a long horizontal flourish extending to the right.

Michael B. Bressman

cc: Carsie Mundy
Tim Smoak
Henry Walker